

ESTTA Tracking number: **ESTTA245565**

Filing date: **10/29/2008**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92047013
Party	Plaintiff NeTrack, Inc.
Correspondence Address	Carl Oppedahl Oppedahl Patent Law Firm LLC P.O. Box 4850 Frisco, CO 80443-4850 UNITED STATES docket-oppedahl@oppedahl.com
Submission	Plaintiff's Notice of Reliance
Filer's Name	Terrence M. Wyles
Filer's e-mail	docket-oppedahl@oppedahl.com
Signature	/s/
Date	10/29/2008
Attachments	2008-10-29-DRAFT-NTer-i007-Notice-of-Reliance-on-Exhibits-CC-Through-PP.pdf (4 pages)(27331 bytes) Exhibit-CC-Registration-Certificate.pdf (2 pages)(27939 bytes) Exhibit-DD-Registration-Certificate.pdf (2 pages)(28502 bytes) Exhibit-EE-Combined-Declaration.pdf (8 pages)(526862 bytes) Exhibit-FF-2003-Specimens.pdf (5 pages)(544977 bytes) Exhibit-GG-Section8and15.pdf (7 pages)(513536 bytes) Exhibit-HH-Acceptance-Acknowledgement.pdf (2 pages)(30227 bytes) Exhibit-II-2006-Change-of-Address.pdf (2 pages)(24460 bytes) Exhibit-JJ-Notice-of-Publication.pdf (18 pages)(610452 bytes) Exhibit-KK-2007-Specimens.pdf (4 pages)(678620 bytes) Exhibit-LL-File-Jacket.pdf (5 pages)(2719821 bytes) Exhibit-MM-2007-Change-of-Address.pdf (3 pages)(16257 bytes) Exhibit-NN-2008-Specimens.pdf (5 pages)(6889502 bytes) Exhibit-OO-Sections8and9.pdf (9 pages)(6921417 bytes) Exhibit-PP-Renewal.pdf (2 pages)(19580 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re Registration No. 3,064,820

Mark: NETTRAK

Registered March 7, 2006

NeTrack, Inc., Petitioner)	
)	
v.)	Cancellation No. 92047013
)	
Internet FX, Inc., Registrant)	
)	

Commissioner for Trademarks

P.O. Box 1451

Alexandria, VA 22313-1451

NOTICE OF RELIANCE

Pursuant to TBMP § 704.02, the Petitioner hereby notifies the Board and the Registrant that, in support of the Petitioner's Cancellation Action, the Petitioner is relying on the following documents, Exhibits CC through PP, which represent a copy of the electronic Trademark Document Retrieval (TDR) record for U.S. Trademark Application Serial No. 75/287,548 for the mark NETRACK. The electronic record for the Petitioner's U.S. Trademark Application Serial No. 75/287,548 has been repeatedly referred to by the Registrant in the Registrant's discovery responses, including the Registrant's Answer (paragraphs 6 and 38), the Registrant's answers to Petitioner's Request for Admissions 1, 2 and 4, and the Registrant's production of documents that included the document in Petitioner's Exhibit M. Accordingly, the Petitioner introduces said 14 documents, as Exhibits CC through PP, and respectfully requests that each of said Exhibits be admitted into evidence:

- **EXHIBIT CC** - A copy of the Registration Certificate for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated February 24, 1998.

- **EXHIBIT DD** - A second copy from the electronic record of the Registration Certificate for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated February 24, 1998.
- **EXHIBIT EE** - A copy of the paper correspondence containing a Combined Declaration of Use and Incontestability Under Sections 8 & 15 for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated April 19, 2003.
- **EXHIBIT FF** - A copy of the Specimen of Use for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated April 21, 2003.
- **EXHIBIT GG** - A copy of the Combined Declaration of Use and Incontestability Under Sections 8 & 15 for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated April 21, 2003.
- **EXHIBIT HH** - A copy of the Notice of Acceptance of the Petitioner's Section-8 Affidavit and the Notice of Acknowledgement of the Petitioner's Section-15 Affidavit for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated July 10, 2003.
- **EXHIBIT II** - A copy of a change of correspondence address dated January 24, 2006.
- **EXHIBIT JJ** – A copy of a detailed prosecution-history report for the Petitioner's mark, NETRACK, U.S. Trademark Application Serial No. 75/287,548, which matured into Registration No. 2,139,229, said document entered by the USPTO on March 27, 2007.
- **EXHIBIT KK** – A copy of the Specimen of Use for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated May 6, 1997, and entered on March 27, 2007.
- **EXHIBIT LL** – A copy of the File Jacket for U.S. Trademark Application Serial No. 75/287,548, which matured into Registration No. 2,139,229, said document entered by the USPTO on March 27, 2007.

- **EXHIBIT MM** - A copy of a change of owner address dated October 7, 2007.
- **EXHIBIT NN** - A copy of the Specimen of Use for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated February 25, 2008.
- **EXHIBIT OO** - A copy of the Combined Declaration of Use and Incontestability Under Sections 8 & 15 for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated February 25, 2008.
- **EXHIBIT PP** - A copy of the Notice of Acceptance of the Petitioner's Section-8 Affidavit and the Notice of Renewal based on the Petitioner's Section-9 Affidavit for the Petitioner's mark, NETRACK, Registration No. 2,139,229, dated March 1, 2008.

WHEREFORE, the Petitioner respectfully requests that the above-described Exhibits CC through PP be entered into evidence.

Respectfully submitted,

/s/
Terrence M. Wyles, Attorney
Colorado Reg. #39799

Attorneys for Petitioner:	Carl Oppedahl Jessica L. Olson Terrence M. Wyles P.O. Box 4850 Frisco, CO 80443-4850 Tel: +1 970 468-8600 Fax: +1 970 692-2203
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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing NOTICE OF RELIANCE on Exhibits CC through PP was deposited on October 29, 2008 with the United States Post Office, First Class postage prepaid, and addressed to the Registrant's Correspondent as follows:

SUSAN E. HOLLANDER & BRITT L. ANDERSON
MANATT, PHELPS & PHILLIPS, LLP
1001 PAGE MILL ROAD, BLDG. 2
PALO ALTO, CA 94304

/s/

Terrence M. Wyles, Attorney
Colorado Reg. #39799

Attorneys for Petitioner: Carl Oppedahl
Jessica L. Olson
Terrence M. Wyles
P.O. Box 4850
Frisco, CO 80443-4850
Tel: +1 970 468-8600
Fax: +1 970 692-2203

EXHIBIT CC

Int. Cl.: 38

Prior U.S. Cls.: 100, 101 and 104

United States Patent and Trademark Office

Reg. No. 2,139,229

Registered Feb. 24, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

NETRACK

**NETRACK LLC (COLORADO LLC)
P O BOX 17565
BOULDER, CO 803080565**

**FOR: TELECOMMUNICATIONS SERVICES,
NAMELY, PROVIDING ACCESS TO A
GLOBAL COMPUTER NETWORK BY SERVER
COLOCATION, AND PROVIDING COMPUTER
LEASED LINE AND FRAME RELAY CONNEC-**

**TIVITY FOR ELECTRONIC TRANSMISSION
AND RECEPTION OF INFORMATION, IN
CLASS 38 (U.S. CLS. 100, 101 AND 104).**

**FIRST USE 3-6-1996; IN COMMERCE
4-29-1996.**

SER. NO. 75-287,548, FILED 5-6-1997.

ERNESTO CLARKE, EXAMINING ATTORNEY

EXHIBIT DD

Int. Cl.: 38

Prior U.S. Cls.: 100, 101 and 104

Reg. No. 2,139,229

United States Patent and Trademark Office

Registered Feb. 24, 1998

**SERVICE MARK
PRINCIPAL REGISTER**

NETRACK

NETRACK LLC (COLORADO LLC)
P O BOX 17565
BOULDER, CO 803080565

FOR: TELECOMMUNICATIONS SERVICES,
NAMELY, PROVIDING ACCESS TO A
GLOBAL COMPUTER NETWORK BY SERVER
COLOCATION, AND PROVIDING COMPUTER
LEASED LINE AND FRAME RELAY CONNEC-

TIVITY FOR ELECTRONIC TRANSMISSION
AND RECEPTION OF INFORMATION, IN
CLASS 38 (U.S. CLS. 100, 101 AND 104).

FIRST USE 3-6-1996; IN COMMERCE
4-29-1996.

SER. NO. 75-287,548, FILED 5-6-1997.

ERNESTO CLARKE, EXAMINING ATTORNEY

EXHIBIT EE

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PTO Form 1583 (Rev 4/2000)

OMB Control #0651-0009 (Exp. 08/31/2004)

Combined Declaration of Use and Incontestability Under Sections 8 & 15**To the Commissioner for Trademarks:**

04/22/2003 INTTEAS 00000349 2139229

MARK: NETRACK**REGISTRATION NUMBER:** 2139229

01 FC:7205

100.00 OP

REGISTRATION DATE: 02/24/1998

02 FC:7208

200.00 OP

The owner, NeTrack, Inc., residing at P O Box 17565 , Boulder, CO US 803080565, is using the mark in commerce on or in connection with the goods and /or services as follows:

For International Class 038, the owner is using or is using through a related company the mark in commerce on or in connection with all goods and/or services listed in the existing registration.

The owner is submitting one specimen for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services , consisting of a(n) screen shots of web site offering services..

Specimen-1Specimen-2

The applicant, hereby appoints Carl Oppedahl and Marina T. Larson of Oppedahl & Larson LLP, P O Box 5068, Dillon, CO USA 80435-5068 to submit this application on behalf of the applicant.

A fee payment in the amount of \$300 will be submitted with the form, representing payment for 1 class (es), plus any additional grace period fee, if necessary.

Declaration

The owner is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The mark has been in continuous use in commerce for five consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with all goods and/or services as identified above. There has been no final decision adverse to the owner's claim of ownership of such mark for such goods and/or services, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not disposed of either in the Patent and Trademark Office or in the courts.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /bld/ Date: 04/21/2003

Signatory's Name: Barbara L. Dijker

Signatory's Position: President

SPECIMEN

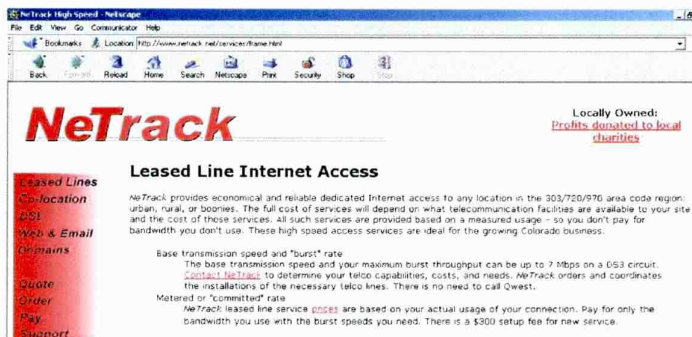
Internet Transmission Date:
04/19/2003

International Class:
038

Registration Number:
2139229

Serial Number:
75287548

75287548



SPECIMEN

Internet Transmission Date:
04/19/2003

International Class:
038

Registration Number:
2139229

Serial Number:
75287548

75287548

The screenshot shows a Netscape browser window with the title "NeTrack Co-location Services - Netscape". The address bar displays "http://www.netrack.net/services/colo.html". The browser's toolbar includes buttons for Back, Forward, Reload, Home, Search, Netscape, Print, Security, Shop, and Stop. The main content area features the "NeTrack" logo in large red letters. To the right of the logo, the text "Local Profits" is visible. Below the logo, the heading "Web Server Co-location" is present. A paragraph of text states: "NeTrack provides premier co-location facilities for your web server. NeTrack is the perfect place from which to run your web business. Use your machine and [NeTrack's network facilities](#). You then manage your server remote." A vertical sidebar on the left contains a list of links: "Leased Lines", "Co-location", "DSL", "Web & Email", "Domains", "Quote", "Order", "Pay", "Support", "Our Facility", and "About Us". The main content area lists several service features with their descriptions:

- High Speed Net Access:** All the bandwidth you need. Connected via four international backbone networks. [Commitment](#) to bandwidth upgrades.
- Reliability:** Redundant network lines. Back-up power. Network gear physically isolated and redundant. 24x7 operations.
- Security:** Secure machine room. Electronically monitored. Controlled access.
- Accessibility:** Discretionary physical access 24x7. No appointments necessary. Workbench area for maintenance/upgrades. Support contracts available.

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PTO Form 1583 (Rev 4/2000)

OMB Control #0651-0009 (Exp. 08/31/2004)

Combined Declaration of Use and Incontestability Under Sections 8 & 15

The table below presents the data as entered.

Input Field	Entered
MARK	NETRACK
REGISTRATION NUMBER	2139229
REGISTRATION DATE	02/24/1998
SERIAL NUMBER	75287548
OWNER	
NAME	NeTrack, Inc.
STREET	P O Box 17565
CITY	Boulder
STATE	CO
ZIP/POSTAL CODE	803080565
COUNTRY	US
ATTORNEY	
NAME	Carl Oppedahl
FIRM NAME	Oppedahl & Larson LLP
STREET	P O Box 5068 ✓
CITY	Dillon
STATE	CO
ZIP/POSTAL CODE	80435-5068
COUNTRY	USA
PHONE	970-468-6600
FAX	970-468-0104
EMAIL	oppedahl@patents.com

AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
DOCKET NUMBERS	NETR.T001
OTHER APPOINTED ATTORNEY(S)	Marina T. Larson
GOODS AND/OR SERVICES	
INTERNATIONAL CLASS	038
KEEP EXISTING GOODS AND/OR SERVICES	YES
SPECIMEN FILE NAME(S)	20717413178-19192221505-leased.jpg
	20717413178-19192232290-colo.jpg
SPECIMEN DESCRIPTION	screen shots of web site offering services.
SIGNATURE INFORMATION	
SIGNATURE	/bld/
SIGNATURE DATE	04/21/2003
SIGNATORY NAME	Barbara L. Dijker
SIGNATORY POSITION	President
PAYMENT	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	300
TOTAL AMOUNT	300
RAM SALE NUMBER	349
RAM ACCOUNTING DATE	20030422

FEE RECORD SHEET

Registration Number: 2139229

Serial Number: 75287548



RAM Sale Number: 349

Total Fees: \$300

RAM Accounting Date: 20030422

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
§8 affidavit	7205	04/19/2003	\$100	1	\$100
§15 affidavit	7208	04/19/2003	\$200	1	\$200

EXHIBIT FF

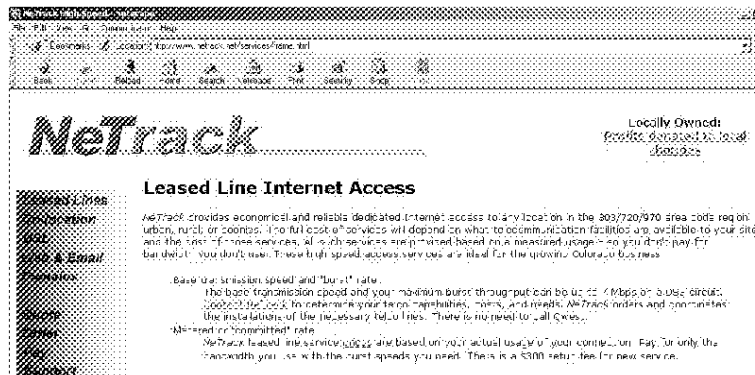
SPECIMEN

Internet Transmission Date:
04/21/2003

Registration Number:
2139229

International Class:
038

Serial Number:
75287548



SPECIMEN

Internet Transmission Date:
04/21/2003

International Class:
038

Registration Number:
2139229

Serial Number:
75287548



NeTrack

Web Server Co-location

NeTrack provides premier co-location facilities for your web server. NeTrack is the perfect place from which to run your web business. Use your machines and use our services to your advantage. You then manage your server remotely.

High Speed Net Access

- All the bandwidth you need
- Connected via four international backbone networks
- Continuous to bandwidth upgrades

Reliability

- Redundant network lines
- Back-up power
- Network gear physically isolated and redundant
- 24x7 operations

Security

- Secure machine room
- Electronically monitored
- Controlled access

Accessibility

- Discretionary physical access 24x7
- No appointments necessary
- Workbench area for maintenance/upgrades
- Support contracts available

Leased Lines

Co-location

Web & Email

Support

Our Facility

Support Us



NeTrack

Locally Owned:
Profits donated to local
charities

Leased Line Internet Access

NeTrack provides economical and reliable dedicated Internet access to any location in the 303/720/970 area code region: urban, rural, or boonies. The full cost of services will depend on what telecommunication facilities are available to your site and the cost of those services. All such services are provided based on a measured usage - so you don't pay for bandwidth you don't use. These high speed access services are ideal for the growing Colorado business.

Base transmission speed and "burst" rate

The base transmission speed and your maximum burst throughput can be up to 7 Mbps on a DS3 circuit. [Contact NeTrack](#) to determine your telco capabilities, costs, and needs. *NeTrack* orders and coordinates the installations of the necessary telco lines. There is no need to call Qwest.

Metered or "committed" rate

NeTrack leased line service [prices](#) are based on your actual usage of your connection. Pay for only the bandwidth you use with the burst speeds you need. There is a \$300 setup fee for new service.

Leased Lines
Co-location
DSL
Web & Email
Domains

Quote
Order
Pay
Support

NeTrack

Loca
Profits d
c

Web Server Co-location

NeTrack provides premier co-location facilities for your web server. NeTrack is the perfect place from which to run your web business. Use your machine and [NeTrack's network facilities](#). You then manage your server remotely.

Leased Lines
Co-location
DSL
Web & Email
Domains

Quote
Order
Pay
Support

Our...
Facility
About Us

High Speed Net Access	All the bandwidth you need Connected via four international backbone networks Commitment to bandwidth upgrades
Reliability	Redundant network lines Back-up power Network gear physically isolated and redundant 24x7 operations
Security	Secure machine room Electronically monitored Controlled access
Accessibility	Discretionary physical access 24x7 No appointments necessary Workbench area for maintenance/upgrades Support contracts available

EXHIBIT GG

Combined Declaration of Use and Incontestability Under Sections 8 & 15

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2139229
REGISTRATION DATE	02/24/1998
SERIAL NUMBER	75287548
MARK SECTION	
MARK	NETRACK
OWNER SECTION (current)	
NAME	NeTrack LLC
STREET	P O Box 17565
CITY	Boulder
STATE	CO
ZIP/POSTAL CODE	803080565
COUNTRY	US
OWNER SECTION (proposed)	
NAME	NeTrack, Inc.
STREET	P O Box 17565
CITY	Boulder
STATE	CO
ZIP/POSTAL CODE	803080565
COUNTRY	US
ATTORNEY SECTION	
NAME	Carl Oppedahl
FIRM NAME	Oppedahl & Larson LLP
STREET	P O Box 5068
CITY	Dillon
STATE	CO
ZIP/POSTAL CODE	80435-5068
COUNTRY	USA
PHONE	970-468-6600
FAX	970-468-0104
EMAIL	oppedahl@patents.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
DOCKET NUMBERS	NETR.T001
OTHER APPOINTED ATTORNEY(S)	Marina T. Larson
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	038
KEEP EXISTING GOODS AND/OR SERVICES	YES
SPECIMEN FILE NAME(S)	\\ticters\EXPORT4\IMAGEOUT4\752\875\75287548\xml1\81 50002.JPG

	\\ticons\EXPORT4\IMAGEOUT4 \752\875\75287548\xml1\81 50003.JPG
SPECIMEN DESCRIPTION	screen shots of web site offering services.
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	300
TOTAL AMOUNT	300
SIGNATURE SECTION	
SIGNATURE	/bld/
SIGNATORY NAME	Barbara L. Dijker
SIGNATORY DATE	04/21/2003
SIGNATORY POSITION	President
FILING INFORMATION	
SUBMIT DATE	Mon Apr 21 18:30:23 EDT 2003
TEAS STAMP	USPTO/S08N15-20717413178- 20030421183023692052-2139 229-2003a6a2b1dac1b7ced23 f17f8face7875CC349-200304 19192309282013

Combined Declaration of Use and Incontestability Under Sections 8 & 15

To the Commissioner for Trademarks:

REGISTRATION NUMBER: 2139229

REGISTRATION DATE: 02/24/1998

MARK: NETRACK

The owner, NeTrack, Inc., residing at P O Box 17565 , Boulder, CO US 803080565, is using the mark in commerce on or in connection with the goods and /or services as follows:

For International Class 038, the owner is using or is using through a related company the mark in commerce on or in connection with all goods and/or services listed in the existing registration.

The owner is submitting one specimen for each class showing the mark as used in commerce on or in connection with any item in the class of listed goods and/or services , consisting of a(n) screen shots of web site offering services..

Specimen-1

Specimen-2

The registrant hereby appoints Carl Oppedahl and Marina T. Larson of Oppedahl & Larson LLP, P O Box 5068, Dillon, CO USA 80435-5068 to submit this Combined Declaration of Use and Incontestability Under Sections 8 & 15 on behalf of the registrant. The attorney docket/reference number is NETR.T001.

A fee payment in the amount of \$300 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

Declaration

The owner is using the mark in commerce on or in connection with the goods/services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce. The mark has been in continuous use in commerce for five consecutive years after the date of registration, or the date of publication under Section 12(c), and is still in use in commerce on or in connection with all goods and/or services as identified above. There has been no final decision adverse to the owner's claim of ownership of such mark for such goods and/or services, or to the owner's right to register the same or to keep the same on the register; and there is no proceeding involving said rights pending and not

disposed of either in the Patent and Trademark Office or in the courts.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /bld/ Date: 04/21/2003
Signatory's Name: Barbara L. Dijker
Signatory's Position: President

Mailing Address:
Oppedahl & Larson LLP
P O Box 5068
Dillon, CO 80435-5068

RAM Sale Number: 349
RAM Accounting Date: 04/22/2003

Serial Number: 75287548
Internet Transmission Date: Mon Apr 21 18:30:23 EDT 2003
TEAS Stamp: USPTO/S08N15-20717413178-200304211830236
92052-2139229-2003a6a2b1dac1b7ced23f17f8
face7875CC349-20030419192309282013



NeTrack

Locally Owned:
Profits donated to local
charities

Leased Line Internet Access

NeTrack provides economical and reliable dedicated Internet access to any location in the 303/720/970 area code region: urban, rural, or boonies. The full cost of services will depend on what telecommunication facilities are available to your site and the cost of those services. All such services are provided based on a measured usage - so you don't pay for bandwidth you don't use. These high speed access services are ideal for the growing Colorado business.

Base transmission speed and "burst" rate

The base transmission speed and your maximum burst throughput can be up to 7 Mbps on a DS3 circuit. [Contact NeTrack](#) to determine your telco capabilities, costs, and needs. *NeTrack* orders and coordinates the installations of the necessary telco lines. There is no need to call Qwest.

Metered or "committed" rate

NeTrack leased line service [prices](#) are based on your actual usage of your connection. Pay for only the bandwidth you use with the burst speeds you need. There is a \$300 setup fee for new service.

Leased Lines
Co-location
DSL
Web & Email
Domains

Quote
Order
Pay
Support

NeTrack

Loca
Profits d
c

Web Server Co-location

NeTrack provides premier co-location facilities for your web server. NeTrack is the perfect place from which to run your web business. Use your machine and [NeTrack's network facilities](#). You then manage your server remotely.

Leased Lines
Co-location
DSL
Web & Email
Domains

Quote
Order
Pay
Support

Our...
Facility
About Us

High Speed Net Access	All the bandwidth you need Connected via four international backbone networks Commitment to bandwidth upgrades
Reliability	Redundant network lines Back-up power Network gear physically isolated and redundant 24x7 operations
Security	Secure machine room Electronically monitored Controlled access
Accessibility	Discretionary physical access 24x7 No appointments necessary Workbench area for maintenance/upgrades Support contracts available

FEE RECORD SHEET

Registration Number: 2139229

Serial Number: 75287548



RAM Sale Number: 349

Total Fees: \$300

RAM Accounting Date: 20030422

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Total Fee</u>
§8 affidavit	7205	20030422	\$100	1	\$100
§15 affidavit	7208	20030422	\$200	1	\$200

EXHIBIT HH



Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3514
www.uspto.gov

REGISTRATION NO: 2139229 SERIAL NO: 75/287548 MAILING DATE: 07/10/2003
REGISTRATION DATE: 02/24/1998
MARK: NETRACK
REGISTRATION OWNER: NETRACK, INC.

CORRESPONDENCE ADDRESS:

CARL OPPEDAHL
OPPEDAHL & LARSON LLP
P O BOX 5068
DILLON OH 80435 5068

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(1)

THE COMBINED AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058. **ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.**

NOTICE OF ACKNOWLEDGEMENT

15 U.S.C. Sec. 1065

THE AFFIDAVIT FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 15 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1065. **ACCORDINGLY, THE SECTION 15 AFFIDAVIT IS ACKNOWLEDGED.**

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):
038.

EVERETT, PATRICIA
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
(703)308-9500

**PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION**
ORIGINAL

REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION) SECTION 8: AFFIDAVIT OF CONTINUED USE The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration. **Failure to file the Section 8 Affidavit will result in the cancellation of the registration.**

II) SECTION 9: APPLICATION FOR RENEWAL The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration. **Failure to file the Application for Renewal will result in the expiration of the registration.**

NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.

EXHIBIT II

<SERIAL NUMBER> 75287548
<MARK> NETRACK
<LAW OFFICE ASSIGNED> LAW OFFICE 107
<CONTACT TYPE> Correspondent

<ORIGINAL ADDRESS> CARL OPPEDAHL
OPPEDAHL & LARSON LLP
P O BOX 5068
DILLON OH 80435 5068

<NEW ADDRESS>
 <CORRESPONDENT> Oppedahl & Olson LLP
 <STREET ADDRESS> P O Box 5388
 <CTIY> Dillon
 <STATE> CO
 <POSTAL CODE> 80435-5388
 <PHONE> 970 468 8600
 <EMAIL AUTHORIZED> N
 <SUBMIT DATE> Jan 24, 2006

<SIGNATURE>
 <ESIGNATURE-TYPE> DIRECT
 <SIGNATURE-TYPE> D
 <SIGNATURE-ENTRY-NUMBER>
 <SIGNATURE-NAME> /s/
 <SIGNATORY-DATE> 20060124
 <SIGNATORY-NAME> Carl Oppedahl
 <SIGNATORY-POSITION> Attorney

EXHIBIT JJ



**UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office**

ASSISTANT COMMISSIONER FOR TRADEMARKS
2900 Crystal Drive
Arlington, Virginia 22202-3513

Oct. 31, 1997

NOTICE OF PUBLICATION UNDER 12(a)

- | | |
|--------------------------------------|------------------------------|
| 1. Serial No.:
75/287,548 | 2. Mark:
NETRACK |
| 3. International Class(es):
38 | |
| 4. Publication Date:
Dec. 2, 1997 | 5. Applicant:
NeTrack LLC |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the Official Gazette on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a certificate of registration.

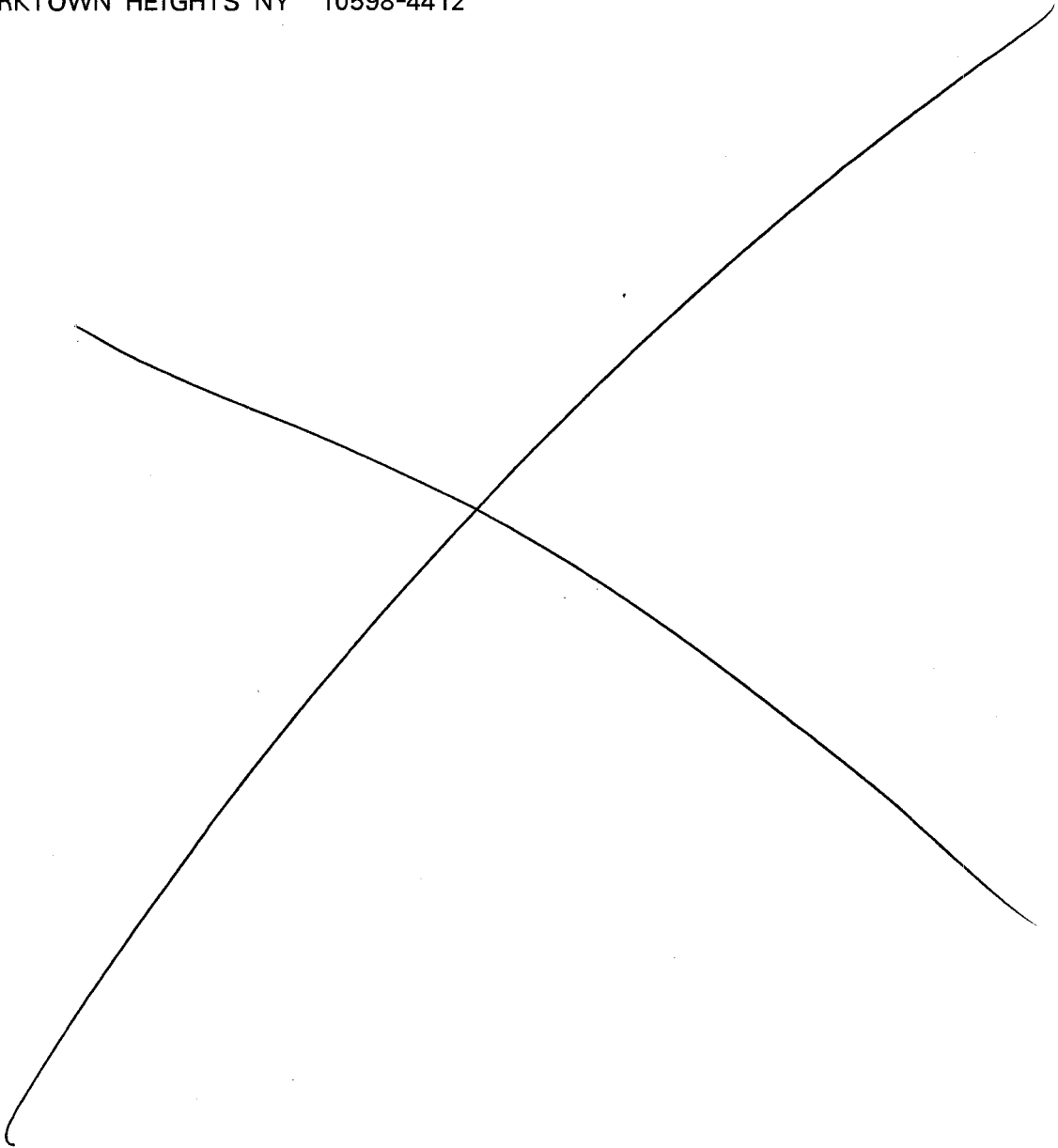
Copies of the trademark portion of the Official Gazette containing the publication of the mark may be obtained at \$28.00 each for domestic orders, or at \$35.00 each for foreign orders from:

The Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

By direction of the Commissioner.

CARL OPPEDAH
OPPEDAHL & LARSON
1992 COMMERCE ST 309
YORKTOWN HEIGHTS NY 10598-4412

TMP&I



PUBLICATION/REGISTRATION EXAMINATION WORK SHEET

L.O.: 7

Date: 10-8-97

Serial No.:

I certify all information in the database matched the information in the file and no corrections were required.

INSTRUCTIONS: If the information in the database does not match the information in the file the reviewer should check the ERROR column. After correction (text editing), the EDITED column should be checked.

RETAIN IN FILE WRAP

SCREEN	ERROR	EDITED	ERROR FOUND DURING REVIEW REQUIRING AMENDMENT OF:
--------	-------	--------	---

FEDERAL BUREAU OF INVESTIGATION					
AM		Mark Type:			
		Register:			
PY		Mark:	<input type="checkbox"/> MDC:		
		Owner:	<input type="checkbox"/> Name:		
			<input type="checkbox"/> Citizenship:		
			<input type="checkbox"/> Entity Type:		
		DBA/AKA/TA Statement:			
		Address:	<input type="checkbox"/> Inter	<input type="checkbox"/> City	<input type="checkbox"/> State/Country <input type="checkbox"/> Zip
		Assignment or Name Change:			
		Composed of:			
CL		International Class:	U.S. Class:		
		First Use:	First Use in Commerce:		
		Goods and Services:			
AM		Amended Register:	P.R.:	S.R.:	
OTHER DATA		Amended Reg. Date:			
		Disclaimer:			
		Description of Mark:			
		Lining and Stippling Statement:			
		Translation of Words in Mark:			
		Name/Portrait Description/Consent:			
		Section 2(f):	<input type="checkbox"/> In Part	<input type="checkbox"/> Limitation Statement	<input type="checkbox"/> Entire Mark
		Use in Another Form:			
		Certification Statement:			
FN		Concurrent Use Statement:			
		Prior U.S. Registrations:			
		Domestic Representative:			
		Foreign Country of Origin:			
		Foreign Application No.:	Frgn. Appl. Filing Date:		
		Section 44(d): Y/N	Section 44(e): Y/N		
		Foreign Registration No.:	Frgn. Reg. Date:		
		Foreign Registration Expiration Date:	Frgn. Reg. Renewed:		
CD		Foreign Renewal Reg. No.:	Frgn. Reg. Renewed:		
		Foreign Registration Renewed Expiration Date:			
		Attorney Name:			
CD		Correspondence:	<input type="checkbox"/> Name	<input type="checkbox"/> Inter St. Address	<input type="checkbox"/> City/State/Zip
		Attorney Docket Number:			

Other.

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

AMENDMENT EXAMINATION WORK SHEET

Name: Shana Webster-Trotman L.O.: 107 Date: 10-1-97 Serial No.: _____

INSTRUCTIONS: To certify amendments the R&A Clerk should check the "AMENDED" column. The Text Editor should check "ENTERED" for the amendments entered.
RETAIN IN FILE.

SCREEN	AMENDED	ENTERED	AMENDED TO
AM			AM Mark Type:
			AM Register:
			AM Mark: MCO:
PY			PY Owner: Name:
			PY Citizenship:
			PY Entity Type:
			EN Entity Statement:
			DB DBA/AKA/TA Statement
			PY Address: Inter City State/Country Zip
			NC Assignment or Name Change:
CL			CO Composed of:
			CI International Class: U.S. Class:
			FI First Use: First Use in Commerce:
			GS Goods and Services:
			GS
			GS
AM			AM Amended Register: P.R.: S.P.:
			AM Amended Reg Date:
			DI Disclaimer:
OTHER			DM Description of Mark
			LS Lining and Spacing Statement
			TR Translation of Words in Mark
			ND Name/Portrait Description/Consent
			TF Section 2(f): Entire Mark
			In Part Limitation Statement
			AF Use in Another Form:
			CS Certification Statement
			CU Concurrent Use Statement
			PR Prior U.S. Registrations:
FN			DR Domestic Representative:
			FN Foreign Country of Origin:
			FN Foreign Application No.: Frng. App. Filing Date:
			FN Section 44(d) Claimed: Y/N
			FN Foreign Registration No.: Frng. Reg. Date:
			FN Foreign Registration Expiration Date:
			FN Foreign Renewal Reg. No.: Frng. Reg. Renewed:
CD			AT Attorney Name:
			CD Correspondence: Name Inter St. Address City, State, Zip
			DN Attorney Docket Number:

Other: _____

I certify that all corrections have been entered in accordance with the above instructions and text editing guidelines.

Shana Webster-Trotman 10-1-97

Form 300-10-1-97

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO. 75/287548 NeTrack LLC	APPLICANT	PAPER NO. 2A	
MARK NETRACK		ADDRESS: Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513 <small>If no fees are enclosed, the address should include the words "Box Responses - No Fee." Please provide in all correspondence:</small> <ol style="list-style-type: none">1. Filing Date, serial number, mark and Applicant's name.2. Mailing date of this action.3. Examining Attorney's name and Law Office number.4. Your telephone number and ZIP code.	
ADDRESS CARL OPPEDAHN OPPEDAHL & LARSON 1992 COMMERCE ST 309 YORKTOWN HEIGHTS NY 10598-4412			ACTION NO. 02
REF. NO. NETRT001			MAILING DATE 10/01/97
<small>FORM PTO-1525 (5-90) U.S. DEPT. OF COMM. PAT. & TM OFFICE</small>			

EXAMINER'S AMENDMENT

EXAMINING ATTORNEY	PERSON CALLED/INTERVIEWED	TELEPHONE NUMBER
E. Santiago Clarke	Carl Oppedahl	970-768-2050
<input checked="" type="checkbox"/> TELEPHONE CALL	INTERVIEW DATE	<input checked="" type="checkbox"/> ATTORNEY
<input type="checkbox"/> PERSONAL INTERVIEW	September 29, 1997	<input type="checkbox"/> APPLICANT

CALL RECORD/NOTES

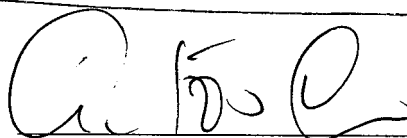
OFFICE SEARCH: The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP section 1105.01.

RE: Serial Number 75/287548

In accordance with the authorization granted by the above Applicant or attorney, the application has been AMENDED as indicated below. No response is necessary unless there is an objection to the amendment.

Identification of Services

GS A1 | Telecommunication services, namely, providing access to a global computer network by server colocation, and providing computer leased line and frame relay connectivity for electronic transmission and reception of information. Class 38



E. Santiago Clarke
Examining Attorney
Law Office 107
(703) 308-9107 ext. 226

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

SERIAL NO. 75/287548 NeTrack LLC		APPLICANT	PAPER NO.
MARK NETRACK		ADDRESS: Assistant Commissioner for Trademarks 2900 Crystal Drive Arlington, VA 22202-3513	
ADDRESS CARL OPPEDAHN OPPEDAHL & LARSON 1992 COMMERCE ST 309 YORKTOWN HEIGHTS NY 10598-4412		ACTION NO. 01	<small>If no fees are enclosed, the address should include the words "Box Responses - No Fee." Please provide in all correspondence:</small> <ol style="list-style-type: none">1. Filing Date, serial number, mark and Applicant's name.2. Mailing date of this Office action.3. Examining Attorney's name and Law Office number.4. Your telephone number and ZIP code.
		MAILING DATE 09/22/97	
		REF. NO. NETRT001	
<small>FORM PTO-1525 (5-90)</small>		<small>U.S. DEPT. OF COMM. PAT. & TM OFFICE</small>	

A PROPER RESPONSE TO THIS OFFICE ACTION MUST BE RECEIVED WITHIN 6 MONTHS FROM THE DATE OF THIS ACTION IN ORDER TO AVOID ABANDONMENT. *For your convenience and to ensure proper handling of your response, a label has been enclosed. Please attach it to the upper right corner of your response. If the label is not enclosed, print or type the Trademark Law Office No., Serial No., and Mark in the upper right corner of your response.*

RE: Serial Number: 75/287548

The assigned examining attorney has reviewed the referenced application and determined the following:

No Conflicting Mark Found

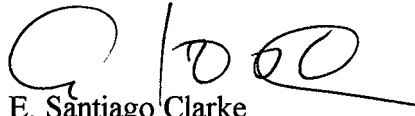
The examining attorney has searched the Office records and has found no similar registered or pending mark which would bar registration under Trademark Act Section 2(d), 15 U.S.C. Section 1052(d). TMEP Section 1105.01. However, applicant must respond to the following informalities:

Identification of Services

The identification of services is unacceptable as indefinite. The term "internet" is the subject of proceedings before the Trademark Trial and Appeal Board; therefore, it may not be used in the identification of applicant's services. In lieu thereof, the applicant may use the term "global computer network" or other similar term. The term "leased line" is also unacceptable as indefinite. Applicant may modify or adopt, if accurate, the following suggested wording to ensure classification in Class 38:

Telecommunication services, namely, providing access to a global computer network by server colocation, and providing computer leased line and frame relay connectivity for electronic transmission and reception of information. Class 38

PLEASE NOTE: All of the issues raised can be resolved by telephone. Applicant may telephone the examining attorney, instead of submitting a written response, to expedite the application.

A handwritten signature in black ink, appearing to read 'E. Santiago Clarke', with a stylized flourish extending to the right.

E. Santiago Clarke
Examining Attorney
Law Office 107
(703) 308-9107 ext. 226



1/3

295-361

75287548

Atty docket no. NETRT001

TRADEMARK/SERVICE MARK
APPLICATION, PRINCIPAL
REGISTER, WITH DECLARATION

Mark: NETRACK
INT'L CLASS NO.: 38

To the Assistant Commissioner for Trademarks

Applicant's name: NeTrack LLC

Applicant's business address: P O Box 17565, Boulder, CO 80308-0565

Applicant's entity type: Colorado LLC



Applicant requests registration of the trademark/service mark shown in the accompanying drawing in the United States Patent and Trademark Office on the Principal Register by the Act of July 5, 1946 (15 U.S.C. § 1051 et. seq., as amended) for the following services:

Class 38: providing internet services, leased line connecting and communications services

Applicant is using mark in commerce on or in connection with the above identified goods/service (15 U.S.C. § 1051(a) as amended.) Three specimens showing the mark as used are submitted with this application.

*Date of first use in commerce which the U.S. Congress may regulate: April 29, 1996

*Type of commerce: interstate

*Date of first use anywhere: March 6, 1996

*Manner or mode of use of mark in connection with the goods/services: mark is used in electronic communication, advertisements, business cards, stationery and web pages

Applicant hereby appoints [Carl Oppedahl] Marina Larson, and Stanley D. Ference of the firm of Oppedahl & Larson as attorneys with power to prosecute this application. Please direct all communications to:

Oppedahl & Larson
1992 Commerce Street #309
Yorktown Heights, NY 10598-4412
(914) 245-3252

Atty Ref
Number
NETRT001

signature

Barbara Dijker
name

date

4/1/97

DECLARATION UNDER 37 C.F.R. § 2.20

The undersigned being hereby warned that willful false statements and the like so made

are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that she is properly authorized to execute this application on behalf of the applicant, she believes the applicant to be the owner of the trademark/service mark sought to be registered, to the best of her knowledge and belief no other person, firm, corporation, or association has the right to use the above identified mark in commerce, either in the identical form thereof or in such near resemblance thereto as to likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive, and that all statements made of her own knowledge are true and that all statements made on information and belief are believed to be true.

4/1/97
Date

Barbara Dijk
Barbara Dijker

LLC Member
Title

TRADEMARK APPLICATION SERIAL NO. 75287548

U.S. DEPARTMENT OF COMMERCE
PATENT AND TRADEMARK OFFICE
FEE RECORD SHEET

620 DR 05/19/97 75287548
0 361 245.00 CK

REGISTRATION REVIEW REPORT

SN: 75/287548

DATE OF REPORT: OCT.02,1997

PAGE: 1

APPROVED BY: CLARKE, ERNESTO

FILING DATE: MAY 06,1997

LAW OFFICE 107

FILED ITU: NO

CURRENTLY ITU: NO

MARK TYPE: Service Mark

REGISTER: Principal

MARK: NETRACK

OWNER: NeTrack LLC (COLORADO, LLC)
P O Box 17565
Boulder, COLORADO 803080565

FOR: telecommunications services, namely, providing
access to a global computer network by server
colocation, and providing computer leased
line and frame relay connectivity for electronic
transmission and reception of information
INT. CLASS 038 (U.S. CLASS 100,101 AND 104)
FIRST USE MAR.06,1996 USE IN COMMERCE APR.29,1996

OTHER INFORMATION TO BE PRINTED ON CERTIFICATE:

REGISTRATION REVIEW REPORT

SN: 75/287548

DATE OF REPORT: SEP.19,1997

PAGE: 1

APPROVED BY: CLARKE, ERNESTO

FILING DATE: MAY 06,1997

LAW OFFICE 107

FILED ITU: NO

CURRENTLY ITU: NO

MARK TYPE: Service Mark

REGISTER: Principal

MARK: NETRACK

OWNER: NeTrack LLC (COLORADO, LLC)
P O Box 17565
Boulder, COLORADO 803080565

FOR: providing Internet services, leased line
connecting and communications services
INT. CLASS 038 (U.S. CLASS 100,101 AND 104)
FIRST USE MAR.06,1996 USE IN COMMERCE APR.29,1996

OTHER INFORMATION TO BE PRINTED ON CERTIFICATE:

CODING SHEET FOR PSEUDO MARKS AND DESIGN SEARCH CODES

SERIES CODE AND SERIAL NUMBER 75287548

MARK DRAWING CODE
(please circle appropriate MDC)

①

2

3

5

6

PSEUDO MARK (PM)

WIPO/DESIGN SEARCH CODES

NAME: Denise Williams

P-1

S-2

ITU: Y or

N

SERIAL # 75/ 287548

TRADEMARK APPLICATION FILE DATA WORKSHEET

CLASS DATA

1. INTERNATIONAL CLASS	38							
2. COLLECTIVE TM or SM	T	S	T	S	T	S	T	S
3. FEE PAID	Y	N	Y	N	Y	N	Y	N
4. PRIOR U.S. CLASS(ES)								
5. 1ST USE DATE	03-06-1996							
6. 1ST USE IN COMM DATE	04-29-1996							
7. IN ANOTHER FORM CODE	1	2	1	2				
8. IN ANOTHER FORM STATEMENT	AF CODE IN MARGIN	TEXT IN []						
9. GOODS/SERVICE	CS INTERNATIONAL	CLASS IN MARGIN,	TEXT []					
10. CERTIFICATION STATEMENT	CS IN MARGIN, TEXT	IN []						

FOREIGN DATA

1. PRIORITY CLAIMED	Y	N	Y	N	Y	N	Y	N
2. COUNTRY CODE								
3. FOREIGN APPLICAITON								
4. FOREIGN FILING DATE								
5. FOREIGN REGISTRATION #								
6. FOREIGN REGISTRATION DATE								
7. FOREIGN EXPIRATION DATE								
8. RENEWAL #								
9. RENEWAL REGISTRATION DATE								
10. RENEWAL EXPIRATION DATE								

NOTES TO DATA ENTRY PERSONNEL:

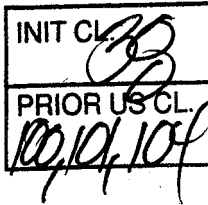


Atty docket no. NETRT001

Applicant name: NeTrack LLC

Applicant's business address: P O Box 17565, Boulder, CO 80308-0565

Goods/services: providing internet services, leased line connecting and communications services



NETRACK

Published
12/02/97

TRADEMARK



75287548

TRADEMARK



*** User: EX895027 ***

STMT NUMBER	TOTAL MARKS	LIVE VIEWED	DEAD VIEWED	SEARCH
01	1	1	0	PHRASCH /OW netrack & applicant
02	17	8	9	PHRASCH :netrack: ^ :netrax:
03	0	0	0	PHRASCH ne & :track:
04	24	21	3	PHRASCH leased line/gs
05	0	0	0	PHRASCH colocation/gs
06	12458	0	0	PHRASCH net:
07	7874	0	0	PHRASCH :rack: ^ :rax:
08	26	15	11	PHRASCH 6&7

TERMINAL SESSION STARTED 09/20/97 4:00 P.M. (EASTERN TIME)

TERMINAL SESSION FINISHED 09/20/97 4:23 P.M. (EASTERN TIME)

ELAPSED TIME THIS SESSION 0 HRS AND 23 MIN

TRADEMARK ASSIGNMENT QUERY AS OF 7/10/2003 16:15:28
REEL/FRAME DATA

REEL: 2522
FRAME: 0115

DATE LAST UPDATED: 08/07/2002
DATE IN SYSTEM:
DATE KEYED IN:
RECORDATION DATE: 06/04/2002
DATE MAILED: 08/07/2002
ASSIGNMENT RECEIPT DATE: 06/10/2002
CONVEY EFFECTIVE DATE:

NUMBER OF PAGES: 002

ELECTRONIC SUBMISSION: N
PTAS SUBMISSION: Y

CORRESPONDENCE

NAME: OPPEDAHN & LARSON LLP
CARL OPPEDAHN
P.O. BOX 5068
DILLON, CO 80435-5068

BRIEF CODE: 40
BRIEF TEXT: BILL OF SALE

CONVEYING PARTY DATA

ENTRY: 001
NAME: NETRACK, LLC
FORMERLY:
ENTITY: 99 - OTHER
ENTITY TEXT: LIMITED LIABILITY COMPANY
CITIZENSHIP: CO - COLORADO
EXECUTION DATE: 01/01/2002

RECEIVING PARTY DATA

ENTRY: 600
NAME: NETRACK, INC.
COMPOSED OF:
DBA/AKA/TA:
ADDRESS: 3080 VALMONT ROAD, SUITE 200
BOULDER
STE/CTRY CODE: CO - COLORADO
ZIP CODE: 80301
ENTITY: 03 - CORPORATION
ENTITY TEXT:
CITIZENSHIP: -

40

DOMESTIC REPRESENTATIVE DATA

NAME:

PROPERTY DATA

SERIAL NUMBER: 75287548 FILING DATE: 05/06/1997
REGISTRATION NUMBER: 2139229 ISSUE DATE: 02/24/1998
WORD MARK: NETRACK
MARK DESCRIPTION: WORDS, LETTERS, OR NUMBERS IN TYPED FORM
LOCATION: 837 - POST REGISTRATION
LOCATION DATE: 07/09/03
EXAMINER: CLARKE, ERNESTO S

EXHIBIT KK

Trademark/Service mark Application Transmittal Letter

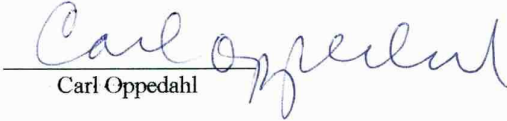
CERTIFICATE OF EXPRESS MAIL UNDER 37 C.F.R. § 1.10

I hereby certify that this paper is being deposited with the United States Postal Service as Express Mail Post Office to Addressee with "Express Mail" mailing label number

EM478923043US

in an envelope addressed to: Assistant Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202 on May 6, 1997.

May 6, 1997
Date of signature


Carl Oppedahl

Mark: NETRACK


The Assistant Commissioner for Trademarks
Box New App/Fee
2900 Crystal Drive
Arlington, VA 22202-3513

Sir:

Please find enclosed an application for trademark registration, with a fee of \$245.00, our check # 2346.

Please charge any deficiency in the amount to deposit account 15-0610.

Respectfully yours,


Carl Oppedahl
Oppedahl & Larson
1992 Commerce Street #309
Yorktown Heights, NY 10598-4412
(914) 245-3252

NeTrack

[Web Server Colocation](#)

[Leased Line Service](#)

[Price List](#)

[Price Comparisons](#)

[Facility Description](#)

[Service Standards](#)

[Customers](#)

[Order Service](#)

[Contact **NeTrack**](#)

NeTrack(tm) specializes in providing high speed Internet access by SERVER COLOCATION and LEASED LINE services. Our colocation service provides reliable high speed megabit access for your Internet web server without costly lines to your site or the hassles of a complex firewall, modems, or routers. **NeTrack** prices are the lowest on the Internet. Get on the right track, locate your web servers at **NeTrack**!



If you are thinking about starting your own web site or offering web services, see our write-up on the [ContentMaster](#).

For additional information [email our sales staff](#).

NeTrack is a member of the [Colorado Internet Cooperative Association](#).



PROMOTE RESPONSIBLE NET COMMERCE: FIGHT SPAM!

webmaster@netrack.com

Copyright © 1996: **NeTrack**(tm), All Rights Reserved.



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TRAFFIC ROOM
MAY - 6 1997
MARK OFFICE

EXHIBIT LL

75287548

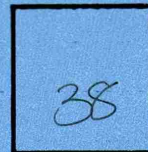


NEW CASE DELIVERED
SEP 19 1997
LAW OFFICE 107

TRADEMARK

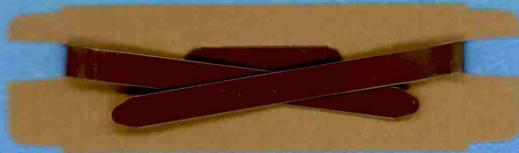


75287548



CONTENTS

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1.		SEP 22 1997	
2.	Ex A 11-A	OCT -1 1997	
3.	NOP		
4.	12/02/97		
5.			
6.	Section 8 & 15	4-18-03	
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NOTES TO THE FILE AND APPROVALS

[illegible]

S L
18-21-97

que
1-17-07

REG NUM: 2139229

REG DT: 02/24/1998

S/N 75/287548

75-287548



TYPED DRAWING

NETRACK

LAW OFFICE 107

PRINCIPAL

E. Santiago Clarke

ATTORNEY ADVISOR:

Examining Attorney—(Please Print Name) E. Santiago Clarke	Date Published in Trademark O.G.
Approved for Publication (Principal Register)—(Signature) <i>[Signature]</i> 12/2	<i>Patricia A. [Signature]</i>
Approved for Registration (Section 1(d))—(Signature)	<i>Patricia A. [Signature]</i> 12/02/97
Approved for Registration (Supplemental Register)—(Signature)	Section 9 Renewal—(Signature)

EXHIBIT MM

Change Of Owner's Address

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	75287548
REGISTRATION NUMBER	2139229
LAW OFFICE ASSIGNED	LAW OFFICE 107
MARK SECTION	
MARK	NETRACK
OWNER SECTION (current)	
NAME	NETRACK, INC.
STREET	P. O. BOX 17565
CITY	BOULDER
STATE	Colorado
ZIP/POSTAL CODE	80308-0565
COUNTRY	United States
CORRESPONDENCE SECTION (current)	
ORIGINAL ADDRESS	Oppedahl & Olson LLP P O Box 5388 Dillon Colorado 80435-5388 United States 970 468 8600
NEW OWNER ADDRESS	
STREET	3080 Valmont Ave., Ste. 200
CITY	Boulder
STATE	Colorado
ZIP/POSTAL CODE	80301
COUNTRY	United States
CURRENT CORRESPONDENCE ADDRESS	
NAME	Oppedahl Patent Law Firm, LLC
STREET	PO Box 4850
CITY	Frisco
STATE	Colorado
COUNTRY	United States
POSTAL/ZIP CODE	80443-4850
PHONE	970 468 8600
SIGNATURE SECTION	
SIGNATURE	/Barbara L Dijker/
SIGNATORY NAME	Barb Dijker
SIGNATORY DATE	10/08/2007
SIGNATORY POSITION	President
FILING INFORMATION SECTION	
SUBMIT DATE	Mon Oct 08 16:49:59 EDT 2007

TEAS STAMP

USPTO/COA-70.90.118.249-2
0071008164959028383-75287
548-40073c56c9bb7fc12305d
6ef48b833b233-N/A-N/A-200
71007211047851706

EXHIBIT NN



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Server Co-location

ORDER NOW!

Netrack provides premier co-location facilities for your web server. Netrack is the perfect place from which to launch your web business. Use your machine and Netrack's network facilities. You then manage your server remotely.

- Affordable** Prices start at \$75/mo
Pay for only what you use
- High Speed** All the bandwidth you need
Multiple backbone access
- Reliability** Back-up power
24x7 operations
- Security** Secure machine room
Electronically monitored
Controlled access
- Accessibility** Physical access 24x7
Maintenance area
Managed service available



Service Levels

Pay for only what you use. Your server is not throttled. Your server enjoys the full bandwidth available at Netrack. When your use exceeds the level for your service category, your service rate will be adjusted for future months. Netrack is committed to ensuring bandwidth capacity for its customers through monitoring and long range planning. Larger usage requirements can be readily accommodated. **Contact Netrack** for a quote if you don't know what your usage will be or if your bandwidth requirements exceed 500kbps. There is a \$200 non-recurring installation fee for co-location services.

Managed servers are also available for managed server arrangements.

Bandwidth Usage Measurements

The calculation to determine your usage and thus your rate is based upon 95th percentile usage measurements. This is a common industry calculation for bandwidth utilization. We routinely collect statistical samples of actual usage at 5 minute intervals. The usage for each 5 minute interval is averaged. Then over a period of a month, the samples are analyzed. The 95th percentile is the number which 95% of your usage is below. We calculate it by taking the maximum of the samples after throwing away the top 5%. The entry level category has a threshold of 200kbps 95th percentile - which translates to approximately 2GB per day of transfers. If you exceed the threshold of your current price category, then your price will increase for subsequent months. All customers who exceed the entry level of 200kbps will be given access to real-time, online statistics and graphs that show usage.

Netrack appreciates notification of any significant anticipated change in your utilization. This allows us to ensure the bandwidth you need is there when you need it.

Physical Space & Provisions

Each server, regardless of service level, is installed in an equipment rack without a monitor and preferably without a keyboard or mouse either. A standard VGA monitor and PC keyboard are available on-site for your use during installation and maintenance. Rack mount hardware is not necessary. The dimensions of the rack space are approximately 18"x19" (WxD). The vertical space (height) utilized will depend on your server. The equipment rack is a standard EIA 19" rack (17 3/4" of usable width). Netrack will accommodate tower configurations. If your system takes more physical space (or other physical resources like power and air conditioning), then additional surcharges may apply.

Each server is provided UPS power and a network 10-baseT full-duplex connection to our Gigabit network.

Contact Policy

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*I used to get 2000
messages a day.
Now I get 50-100.
It's unbelievable! - JR*



Complete Networking Services

ORDER NOW!

Netrack can provide all your Internet access service needs. From dialup, web hosting and domain registration to high-speed broadband, managed services, voip, and consulting. Netrack supports business and residential customers with knowledgeable and professional technical staff.

Voice over IP Anywhere (VoIP) **NEW!**

Digital quality telephone service over your Internet connection. Use your existing telephones if you like. Works on any broadband connection **nationwide!**

Nationwide Dialup

56k and ISDN access in almost 3000 cities **nationwide.**

Spam Control

Netrack blocks more spam and virus mail than any other ISP! We currently block almost 100% of spam before it gets to your box. Get a handle on your mail using Netrack's Cybox email.

Web Email

Access your Cybox email from anywhere in addition to pop/imap.

Web Hosting

Host your professional web site for as little as \$19 per month.

Domain Registration

Register your .com, .org, .net, .biz, .info, or .hm domains for only \$14.99.

DSL

Speeds up to **7 Mbps** available in Colorado from Fort Morgan to Durango as low as \$15.00/mo.

Co-location

High-speed datacenter access for your web server starting at \$75/mo.

For additional information call our office or email our sales staff, sales@netrack.net.

Contact Policy

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Leased Line Internet Access

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Get a T1 for as low as \$99 per month!
Pay for only what you use.

Base transmission speed and "burst" rate

The base transmission speed and your maximum burst throughput can be up to 1.5Mb on a DS1 and up to 15 Mbps on a DS3 circuit. **Contact Netrack** to determine your costs, based on your specific needs. Netrack orders and coordinates the installations of the necessary circuits. There is no need to call Qwest.



Metered or "committed" rate

Netrack prices are based on your actual usage of your connection. Pay for only the bandwidth you use with the burst speeds you need. There is a \$300 non-recurring installation fee for new service.

Netrack can provide just the Internet access, while you do the rest, or Netrack can provide complete turnkey networking solutions which may optionally include:

- Telecommunications Circuit
- Customer Premise Equipment (CPE)
- CPE Configuration & Installation
- Security Firewall Configuration & Maintenance

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EXHIBIT OO

Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9

The table below presents the data as entered.

Input Field	Entered
REGISTRATION NUMBER	2139229
REGISTRATION DATE	02/24/1998
SERIAL NUMBER	75287548
MARK SECTION	
MARK	NETRACK
OWNER SECTION (current)	
NAME	NETRACK, INC.
STREET	3080 Valmont Ave., Ste. 200
CITY	Boulder
STATE	Colorado
ZIP/POSTAL CODE	80301
COUNTRY	United States
ATTORNEY SECTION (current)	
NAME	CARL OPPEDAHL
FIRM NAME	PO Box 4850
STREET	Frisco CO 80443-4850
PHONE	970 468 8600
ATTORNEY DOCKET NUMBER	NETRT001
ATTORNEY SECTION(proposed)	
NAME	CARL OPPEDAHL
FIRM NAME	Oppedahl Patent Law Firm LLC
STREET	PO Box 4850
CITY	Frisco
STATE	Colorado
POSTAL CODE	80443-4850
COUNTRY	United States
PHONE	970 468 8600
FAX	970 692 2203
EMAIL	docket-oppedahl@oppedahl.com
AUTHORIZED TO COMMUNICATE VIA E-MAIL	Yes
ATTORNEY DOCKET NUMBER	NETRT001
GOODS AND/OR SERVICES SECTION	
INTERNATIONAL CLASS	038
GOODS OR SERVICES	KEEP ALL LISTED
SPECIMEN FILE NAME(S)	
ORIGINAL PDF FILE	SPN0-70911709-191021833_._20080225-ScreenShotColocation.pdf

CONVERTED PDF FILE(S) (2 pages)	\\TICRS2\EXPORT15\752\875\75287548\xml1\S890002.JPG
	\\TICRS2\EXPORT15\752\875\75287548\xml1\S890003.JPG
ORIGINAL PDF FILE	SPN0-70911709-191021833_._20080225-ScreenShotCompleteNetworkingServices.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS2\EXPORT15\752\875\75287548\xml1\S890004.JPG
ORIGINAL PDF FILE	SPN0-70911709-191021833_._20080225-ScreenShot-LeasedLine.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS2\EXPORT15\752\875\75287548\xml1\S890005.JPG
SPECIMEN DESCRIPTION	Screen shots of web pages offering the services.
PAYMENT SECTION	
NUMBER OF CLASSES	1
NUMBER OF CLASSES PAID	1
SUBTOTAL AMOUNT	500
TOTAL FEE PAID	500
SIGNATURE SECTION	
SIGNATURE	/s/
SIGNATORY'S NAME	Carl Oppedahl
SIGNATORY'S POSITION	attorney of record
DATE SIGNED	02/25/2008
PAYMENT METHOD	CC
FILING INFORMATION	
SUBMIT DATE	Mon Feb 25 22:33:07 EST 2008
TEAS STAMP	USPTO/S08N09-70.91.170.9-20080225223307281894-2139229-4004bf2de2973cfa8dc2b9e14f0d55381-CC-4614-20080225191021833831

Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9

To the Commissioner for Trademarks:

REGISTRATION NUMBER: 2139229

REGISTRATION DATE: 02/24/1998

MARK: NETRACK

The owner, NETRACK, INC., having an address of 3080 Valmont Ave., Ste. 200, Boulder, Colorado, United States 80301, is filing a Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9.

For International Class 038, the mark is in use in commerce on or in connection with **all** goods or services listed in the existing registration for this specific class; or, the owner is making the listed excusable nonuse claim.

The owner is submitting one specimen showing the mark as used in commerce on or in connection with any item in this class, consisting of a(n) Screen shots of web pages offering the services..

Original PDF file:

SPN0-70911709-191021833_._20080225-ScreenShotColocation.pdf

Converted PDF file(s) (2 pages)

Specimen File1

Specimen File2

Original PDF file:

SPN0-70911709-191021833_._20080225-ScreenShotCompleteNetworkingServices.pdf

Converted PDF file(s) (1 page)

Specimen File1

Original PDF file:

SPN0-70911709-191021833_._20080225-ScreenShot-LeasedLine.pdf

Converted PDF file(s) (1 page)

Specimen File1

The registrant hereby appoints CARL OPPEDAHL of Oppedahl Patent Law Firm LLC, PO Box 4850, Frisco, Colorado United States 80443-4850 to file this Combined Declaration of Use In Commerce & Application For Renewal of Registration of A Mark Under Sections 8 & 9 on behalf of the registrant. The attorney docket/reference number is NETRT001.

A fee payment in the amount of \$500 will be submitted with the form, representing payment for 1 class(es), plus any additional grace period fee, if necessary.

Declaration

Section 8: Declaration of Use in Commerce

Unless the owner has specifically claimed excusable non-use, the owner, or its related company, is using the mark in commerce on or in connection with the goods and/or services identified above, as evidenced by the attached specimen(s) showing the mark as used in commerce.

Section 9: Application for Renewal

The registrant requests that the registration be renewed for the goods and/or services identified above.

The undersigned being hereby warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of this document, declares that he/she is properly authorized to execute this document on behalf of the Owner; and all statements made of his/her own knowledge are true and that all statements made on information and belief are believed to be true.

Signature: /s/ Date: 02/25/2008

Signatory's Name: Carl Oppedahl

Signatory's Position: attorney of record

Mailing Address (current):

PO Box 4850

Frisco CO 80443-4850

,

Mailing Address (proposed):

Oppedahl Patent Law Firm LLC

PO Box 4850

Frisco, Colorado 80443-4850

Serial Number: 75287548

Internet Transmission Date: Mon Feb 25 22:33:07 EST 2008

TEAS Stamp: USPTO/S08N09-70.91.170.9-200802252233072

81894-2139229-4004bf2de2973cfa8dc2b9e14f

0d55381-CC-4614-20080225191021833831



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Voice over IP Anywhere (VoIP) **NEW!**

Digital quality telephone service over your Internet connection. Use your existing telephones if you like. Works on any broadband connection **nationwide!**

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High-speed datacenter access for your web server starting at \$75/mo.

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- Security Firewall Configuration & Maintenance

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ROUTING SHEET TO POST REGISTRATION (PRU)**Registration Number:** 2139229**Serial Number:** 75287548**RAM Sale Number:** 4614**RAM Accounting Date:** 20080226**Total Fees:** \$500

Note: Process in accordance with Post Registration Standard Operating Procedure (SOP)

<u>Transaction</u>	<u>Fee Code</u>	<u>Transaction Date</u>	<u>Fee per Class</u>	<u>Number of Classes</u>	<u>Number of Classes Paid</u>	<u>Total Fee</u>
§8 affidavit	7205	20080225	\$100	1	1	\$100
Application for Renewal (§9)	7201	20080225	\$400	1	1	\$400

Physical Location: 900 - FILE REPOSITORY (FRANCONIA)

Lost Case Flag: False

In TICRS (AM-FLG-IN-TICRS): True

Transaction Date: 20080225

EXHIBIT PP



REGISTRATION NO: 2139229 SERIAL NO: 75/287548 MAILING DATE: 03/01/2008
REGISTRATION DATE: 02/24/1998
MARK: NETRACK
REGISTRATION OWNER: NETRACK, INC.

CORRESPONDENCE ADDRESS:

CARL OPPEDAHL
Oppedahl Patent Law Firm LLC
PO Box 4850
Frisco CO 80443-4850

NOTICE OF ACCEPTANCE

15 U.S.C. Sec. 1058(a)(3)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 8 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1058. **ACCORDINGLY, THE SECTION 8 AFFIDAVIT IS ACCEPTED.**

NOTICE OF RENEWAL

15 U.S.C. Sec. 1059(a)

THE COMBINED AFFIDAVIT AND RENEWAL APPLICATION FILED FOR THE ABOVE-IDENTIFIED REGISTRATION MEETS THE REQUIREMENTS OF SECTION 9 OF THE TRADEMARK ACT, 15 U.S.C. Sec. 1059. **ACCORDINGLY, THE REGISTRATION IS RENEWED.**

THE REGISTRATION WILL REMAIN IN FORCE FOR CLASS(ES):

038.

HEMBRY, DAWN MARIE
PARALEGAL SPECIALIST
POST-REGISTRATION DIVISION
571-272-9500

**PLEASE SEE THE REVERSE SIDE OF THIS NOTICE FOR INFORMATION
CONCERNING REQUIREMENTS FOR MAINTAINING THIS REGISTRATION**
ORIGINAL

REQUIREMENTS FOR MAINTAINING A FEDERAL TRADEMARK REGISTRATION I) SECTION 8: AFFIDAVIT OF CONTINUED USE The registration shall remain in force for 10 years, except that the registration shall be canceled for failure to file an Affidavit of Continued Use under Section 8 of the Trademark Act, 15 U.S.C. Sec. 1058, at the end of each successive 10-year period following the date of registration. **Failure to file the Section 8 Affidavit will result in the cancellation of the registration.**

II) SECTION 9: APPLICATION FOR RENEWAL The registration shall remain in force for 10 years, subject to the provisions of Section 8, except that the registration shall expire for failure to file an Application for Renewal under Section 9 of the Trademark Act, 15 U.S.C. Sec. 1059, at the end of each successive 10-year period following the date of registration. **Failure to file the Application for Renewal will result in the expiration of the registration.**

NO FURTHER NOTICE OR REMINDER OF THESE REQUIREMENTS WILL BE SENT TO THE REGISTRANT BY THE PATENT AND TRADEMARK OFFICE. IT IS RECOMMENDED THAT THE REGISTRANT CONTACT THE PATENT AND TRADEMARK OFFICE APPROXIMATELY ONE YEAR BEFORE THE EXPIRATION OF THE TIME PERIODS SHOWN ABOVE TO DETERMINE APPROPRIATE REQUIREMENTS AND FEES.